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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,396	03/16/2004	Hugo Lenhard-Backhaus	BP-94	3685
7590	05/17/2005		EXAMINER	
Friedrich Kueffner Suit 910 317 Madison Avenue New York, NY 10017			HARVEY, DIONNE	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/802,396	Applicant(s) LENHARD-BACKHAUS ET AL	
	Examiner Dionne N Harvey	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, on which claims 1-9 are readable, in the reply filed on 3/21/2005 is acknowledged.

### ***Claim Objections***

2. **Claim 1** is objected to because of the following informalities: The preamble recites "a miniaturized to the electro-dynamic sound transducer..." Appropriate correction is required.

### ***Specification***

3. **Claim 2** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

- In claim 2, the recitation of "the upper and lower pole pieces have a thickness of at least 1.5 times an average thickness of the bottom of the housing" fails to further limit the invention of claim 1.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- Claim 1 recites "the bottom of the housing" in the line 15 of claim 1;
- Claim 2 recites "the bottom of the housing" in the line 3;
- Claim 3 recites "the bottom of the housing" in the line 3;
- Claim 4 recites "the bottom of the housing" in the line 3;
- Claim 7 recites "the bottom of the housing" in the line 3;
- Claim 8 recites "the bottom of the housing" in the line 3;
- Claim 9 recites "the bottom of the housing" in the line 3;

There is insufficient antecedent basis for these limitations in the claims.

Claims 5-6 are also rejected due to their dependency upon rejected base claim 1.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. **Claims 1-9** are rejected under 35 U.S.C. 102(e) as being anticipated by **Hong (US Patent Application Publication 2003/0156732 A1)**.

Regarding claim 1, in **figure 1**, Hong teaches a miniaturized electro-dynamic sound transducer, wherein the sound transducer comprises: a housing **20** of deep drawn sheet steel (**see, page 2, paragraph [0024]**); a magnet system comprising a magnet **32**; a diaphragm **42** provided with a coil **36**; wires **48** extending from the coil to contacts **46**; in **page 3, paragraph [0052]**, Hong teaches that the outer diameter of the housing is less than 80 mm, reading on "wherein the housing has an outer diameter of maximally 20 mm"; further teaches that the thickness of the housing is less than 60 mm, reading on "wherein the housing is comprised of thin sheet steel having an average thickness of maximally 0.2 mm"; Hong teaches that the magnet system has a lower pole piece **30** and an upper pole piece **34**; and *as best understood with regard to the U.S.C. 112 second paragraph rejection above*, appears to teach that the upper and lower pole pieces are comprised of sheet steel having a thickness of at least 1.5 times an average thickness of the bottom of the housing.

Regarding claim 2, *as best understood with regard to the U.S.C. 112 second paragraph rejection above*, Hong appears to teach that the upper and lower pole pieces are comprised of sheet steel having a thickness of at least 1.5 times an average thickness of the bottom of the housing.

Regarding claim 3, *as best understood with regard to the U.S.C. 112 second paragraph rejection above*, Hong appears to teach that the upper and lower pole pieces

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are comprised of sheet steel having a thickness of at least 2 times an average thickness of the bottom of the housing.

Regarding claim 4, *as best understood with regard to the U.S.C. 112 second paragraph rejection above*, Hong appears to teach that the upper and lower pole pieces are comprised of sheet steel having a thickness of at least 3 times an average thickness of the bottom of the housing.

Regarding claim 5, in **figures 1 and 2**, Hong teaches that the lower pole piece **30** is part of a magnet pot whose peripheral area extends at least substantially to an upper surface of the upper pole piece **34**.

Regarding claim 6, Hong teaches that the lower pole piece **30** is constructed as a solid and uniform whole, thereby reading on "the lower pole piece is a monolithic part of the magnet pot", as claimed.

Regarding claim 7, *as best understood with regard to the U.S.C. 112 second paragraph rejection above*, Hong appears to teach that a wall thickness of the magnet pot is at least 1.5 times an average thickness of the bottom of the housing.

Regarding claim 8, *as best understood with regard to the U.S.C. 112 second paragraph rejection above*, Hong appears to teach that a wall thickness of the magnet pot is at least 2 times an average thickness of the bottom of the housing.

Regarding claim 9, *as best understood with regard to the U.S.C. 112 second paragraph rejection above*, Hong appears to teach that a wall thickness of the magnet pot is at least 3 times an average thickness of the bottom of the housing.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N. Harvey whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Harvey

  
CURTIS K.  
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